

RE: Notice of Equal Employment Opportunity Commission (EEOC) Class Action Complaint, *Felix Z. et al., v. DHS*; EEOC Appeal Nos. 2020005328, 2021003119; EEOC No. 510-2018-00247X; Agency Nos. HS-CBP-01471-2018, HS-CBP-00154-2018

Dear Sir or Madam:

BACKGROUND OF THE CASE

On or about February 7, 2018, an administrative class complaint was filed alleging employment discrimination by U.S. Customs and Border Protection (CBP). The complaint alleges that CBP discouraged or excluded U.S. Border Patrol employees with family ties to Puerto Rico from applying to—and/or denied them the opportunity to participate in—a detail/assignment associated with 2017 Hurricane Maria relief in Puerto Rico, and discriminated against them on the basis of race (Hispanic) and/or national origin (Puerto Rican).

On August 13, 2020, the EEOC certified the class. The Agency appealed and did not implement the certification decision. On April 29, 2021, the EEOC Office of Federal Operations (OFO) found that the class complaint met the regulatory requirements for class certification and remanded the complaint to the Agency for further processing. OFO also ordered the Agency to notify class members of the accepted class claim within fifteen (15) days, or by May 14, 2021. OFO's decision is included with this Notice.

ISSUE ACCEPTED AS PART OF THE CLASS COMPLAINT

The issue initially accepted on or about March 15, 2018 by the Agency for processing was:

Whether U.S. Customs and Border Protection (CBP) discriminated against Complainant, Border Patrol Agent, GS-1896-12, assigned to the El Paso Sector, Las Cruces Station, based on his race/national origin (Hispanic/Puerto Rican) and association with others of Hispanic/Puerto Rican descent, when, in October 2017, he was excluded and/or discouraged from applying and/or denied the opportunity to participate in a temporary duty assignment to Ramey Sector to conduct Border Patrol law enforcement operations and to assist with ongoing humanitarian efforts due to Hurricane Maria.

OFO clarified in its decision that the class is defined as those who:

- (1) worked within one of the five Sectors [El Centro, Big Bend, Yuma, El Paso, and Tucson] that was sent the solicitation for a detail assignment in Ramey Sector in or around October 2017; **and**

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(2) were excluded and/or discouraged from applying and/or denied the opportunity to participate in a temporary duty assignment to Ramey Sector to conduct Border Patrol law enforcement operations, and to assist with ongoing humanitarian efforts due to Hurricane Maria based on race/national origin (Hispanic/Puerto Rican) and association with others of Hispanic/Puerto Rican descent.

You may be a class member. A review of CBP records indicates that you may meet the criteria for membership in the class set forth above.

Although the class has been certified, there has been no determination on the merits of the complaint. The complaint has not been scheduled for a hearing before the EEOC, but information will be available when the complaint is scheduled for a hearing.

BINDING NATURE OF DECISION OR SETTLEMENT

If you meet the criteria to be a potential member of the class, **you are not required to do anything at this time in order to remain a part of the class.**

If an Administrative Judge rules that CBP discriminated against members of the class, you will be notified and given the chance to seek any and all remedies provided by law. With respect to the claims covered in the class definition, you do not need to do anything now to preserve your right to make a claim later. If you are a class member, this case will determine your rights as a class member, and any decision issued will have a binding effect upon you.

OPTING OUT

The EEOC does not allow any class members to “opt out” of the class or choose not to be bound by a class complaint decision. A final decision by the EEOC finding that CBP engaged in discrimination is binding on all members of the class and on CBP. A finding of “no discrimination” is not binding on a class member’s individual complaint of discrimination. Although you may not exclude yourself from the class (opt out), you do not have to participate in this class complaint. If the Administrative Judge finds that CBP discriminated against the class, you will have to file a claim to receive individual relief. In the event that liability is found, you will receive additional notice on how and when to file such a claim.

SETTLEMENT

If the class representative and CBP wish to settle this case, you will be notified and given the opportunity to review the terms of the settlement, and to object or challenge the settlement.

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CLASS REPRESENTATIVE

The class representative is:

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If you have questions, please contact Attorney Downer.

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